

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by  
5 adding Section 356z.4 as follows:

6 (215 ILCS 5/356z.4 new)

7 Sec. 356z.4. Coverage for hearing aids.

8 (a) An individual or group policy of accident and health  
9 insurance or managed care plan that is amended, delivered,  
10 issued, or renewed after the effective date of this  
11 amendatory Act of the 93rd General Assembly must provide  
12 coverage for the practice of fitting, dispensing, servicing,  
13 or sale of hearing instruments or hearing aids by a hearing  
14 instrument dispenser or other hearing care professional.

15 (b) As used in this Section:

16 "Hearing care professional" means a person who is a  
17 licensed audiologist, a licensed hearing instrument  
18 dispenser, or a licensed physician.

19 "Hearing instrument" or "hearing aid" means any  
20 instrument or device designed, intended, or offered for the  
21 purpose of improving a person's hearing and any parts,  
22 attachments, or accessories, including earmold. Batteries,  
23 cords, and individual or group auditory training devices and  
24 any instrument or device used by a public utility in  
25 providing telephone or other communication services are  
26 excluded.

27 "Hearing instrument dispenser" means a person who is a  
28 hearing care professional that engages in the selling,  
29 practice of fitting, selecting, recommending, dispensing, or  
30 servicing of hearing instruments or the testing for means of  
31 hearing instrument selection or who advertises or displays a

1 sign or represents himself or herself as a person who  
2 practices the testing, fitting, selecting, servicing,  
3 dispensing, or selling of hearing instruments.

4 "Practice of fitting, dispensing, servicing, or sale of  
5 hearing instruments" means the measurement of human hearing  
6 with an audiometer, calibrated to the current American  
7 National Standard Institute standards, for the purpose of  
8 making selections, recommendations, adaptations, services, or  
9 sales of hearing instruments including the making of earmolds  
10 as a part of the hearing instrument.

11 "Sell" or "sale" means any transfer of title or of the  
12 right to use by lease, bailment, or any other contract,  
13 excluding wholesale transactions with distributors or  
14 dealers.

15 (c) Coverage under this Section may be subject to the  
16 same deductibles or co-payments generally applicable under  
17 the policy or plan.

18 Section 10. The Health Maintenance Organization Act is  
19 amended by changing Section 5-3 as follows:

20 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

21 Sec. 5-3. Insurance Code provisions.

22 (a) Health Maintenance Organizations shall be subject to  
23 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
24 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
25 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,  
26 356y, 356z.2, 356z.4, 367i, 368a, 401, 401.1, 402, 403, 403A,  
27 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of  
28 subsection (2) of Section 367, and Articles IIA, VIII 1/2,  
29 XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois  
30 Insurance Code.

31 (b) For purposes of the Illinois Insurance Code, except  
32 for Sections 444 and 444.1 and Articles XIII and XIII 1/2,

1 Health Maintenance Organizations in the following categories  
2 are deemed to be "domestic companies":

3 (1) a corporation authorized under the Dental  
4 Service Plan Act or the Voluntary Health Services Plans  
5 Act;

6 (2) a corporation organized under the laws of this  
7 State; or

8 (3) a corporation organized under the laws of  
9 another state, 30% or more of the enrollees of which are  
10 residents of this State, except a corporation subject to  
11 substantially the same requirements in its state of  
12 organization as is a "domestic company" under Article  
13 VIII 1/2 of the Illinois Insurance Code.

14 (c) In considering the merger, consolidation, or other  
15 acquisition of control of a Health Maintenance Organization  
16 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

17 (1) the Director shall give primary consideration  
18 to the continuation of benefits to enrollees and the  
19 financial conditions of the acquired Health Maintenance  
20 Organization after the merger, consolidation, or other  
21 acquisition of control takes effect;

22 (2)(i) the criteria specified in subsection (1)(b)  
23 of Section 131.8 of the Illinois Insurance Code shall not  
24 apply and (ii) the Director, in making his determination  
25 with respect to the merger, consolidation, or other  
26 acquisition of control, need not take into account the  
27 effect on competition of the merger, consolidation, or  
28 other acquisition of control;

29 (3) the Director shall have the power to require  
30 the following information:

31 (A) certification by an independent actuary of  
32 the adequacy of the reserves of the Health  
33 Maintenance Organization sought to be acquired;

34 (B) pro forma financial statements reflecting

1 the combined balance sheets of the acquiring company  
2 and the Health Maintenance Organization sought to be  
3 acquired as of the end of the preceding year and as  
4 of a date 90 days prior to the acquisition, as well  
5 as pro forma financial statements reflecting  
6 projected combined operation for a period of 2  
7 years;

8 (C) a pro forma business plan detailing an  
9 acquiring party's plans with respect to the  
10 operation of the Health Maintenance Organization  
11 sought to be acquired for a period of not less than  
12 3 years; and

13 (D) such other information as the Director  
14 shall require.

15 (d) The provisions of Article VIII 1/2 of the Illinois  
16 Insurance Code and this Section 5-3 shall apply to the sale  
17 by any health maintenance organization of greater than 10% of  
18 its enrollee population (including without limitation the  
19 health maintenance organization's right, title, and interest  
20 in and to its health care certificates).

21 (e) In considering any management contract or service  
22 agreement subject to Section 141.1 of the Illinois Insurance  
23 Code, the Director (i) shall, in addition to the criteria  
24 specified in Section 141.2 of the Illinois Insurance Code,  
25 take into account the effect of the management contract or  
26 service agreement on the continuation of benefits to  
27 enrollees and the financial condition of the health  
28 maintenance organization to be managed or serviced, and (ii)  
29 need not take into account the effect of the management  
30 contract or service agreement on competition.

31 (f) Except for small employer groups as defined in the  
32 Small Employer Rating, Renewability and Portability Health  
33 Insurance Act and except for medicare supplement policies as  
34 defined in Section 363 of the Illinois Insurance Code, a

1 Health Maintenance Organization may by contract agree with a  
2 group or other enrollment unit to effect refunds or charge  
3 additional premiums under the following terms and conditions:

4 (i) the amount of, and other terms and conditions  
5 with respect to, the refund or additional premium are set  
6 forth in the group or enrollment unit contract agreed in  
7 advance of the period for which a refund is to be paid or  
8 additional premium is to be charged (which period shall  
9 not be less than one year); and

10 (ii) the amount of the refund or additional premium  
11 shall not exceed 20% of the Health Maintenance  
12 Organization's profitable or unprofitable experience with  
13 respect to the group or other enrollment unit for the  
14 period (and, for purposes of a refund or additional  
15 premium, the profitable or unprofitable experience shall  
16 be calculated taking into account a pro rata share of the  
17 Health Maintenance Organization's administrative and  
18 marketing expenses, but shall not include any refund to  
19 be made or additional premium to be paid pursuant to this  
20 subsection (f)). The Health Maintenance Organization and  
21 the group or enrollment unit may agree that the  
22 profitable or unprofitable experience may be calculated  
23 taking into account the refund period and the immediately  
24 preceding 2 plan years.

25 The Health Maintenance Organization shall include a  
26 statement in the evidence of coverage issued to each enrollee  
27 describing the possibility of a refund or additional premium,  
28 and upon request of any group or enrollment unit, provide to  
29 the group or enrollment unit a description of the method used  
30 to calculate (1) the Health Maintenance Organization's  
31 profitable experience with respect to the group or enrollment  
32 unit and the resulting refund to the group or enrollment unit  
33 or (2) the Health Maintenance Organization's unprofitable  
34 experience with respect to the group or enrollment unit and

1 the resulting additional premium to be paid by the group or  
2 enrollment unit.

3 In no event shall the Illinois Health Maintenance  
4 Organization Guaranty Association be liable to pay any  
5 contractual obligation of an insolvent organization to pay  
6 any refund authorized under this Section.

7 (Source: P.A. 91-357, eff. 7-29-99; 91-406, eff. 1-1-00;  
8 91-549, eff. 8-14-99; 91-605, eff. 12-14-99; 91-788, eff.  
9 6-9-00; 92-764, eff. 1-1-03.)

10 Section 15. The Voluntary Health Services Plans Act is  
11 amended by changing Section 10 as follows:

12 (215 ILCS 165/10) (from Ch. 32, par. 604)

13 Sec. 10. Application of Insurance Code provisions.  
14 Health services plan corporations and all persons interested  
15 therein or dealing therewith shall be subject to the  
16 provisions of Articles IIA and XII 1/2 and Sections 3.1, 133,  
17 140, 143, 143c, 149, 155.37, 354, 355.2, 356r, 356t, 356u,  
18 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 367.2, 368a,  
19 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and  
20 paragraphs (7) and (15) of Section 367 of the Illinois  
21 Insurance Code.

22 (Source: P.A. 91-406, eff. 1-1-00; 91-549, eff. 8-14-99;  
23 91-605, eff. 12-14-99; 91-788, eff. 6-9-00; 92-130, eff.  
24 7-20-01; 92-440, eff. 8-17-01; 92-651, eff. 7-11-02; 92-764,  
25 eff. 1-1-03.)